

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HEKO SERVICES, INC., a Washington corporation

Claimant,

VS.

CHEMTRACK ALASKA, INC., an Alaskan corporation.

Defendant

CASE NO.: 2:18-cv-01587-RAJ

IN ADMIRALTY

**DECLARATION OF ROBERT
RUSSELL JOHNSON IN SUPPORT OF
CHEMTRACK ALASKA, INC.'S
RESPONSE TO HEKO SERVICES,
INC.'S MOTION FOR SUMMARY
JUDGMENT**

I, Robert Russell Johnson, declare as follows:

1. I am over 18 years of age and competent to testify to matters contained herein, of which I have personal and professional knowledge. A copy of my resume is attached as Exhibit A.

2. I have been retained as expert by ChemTrack Alaska, Inc. in this matter.

3. I have several decades of experience as a tug captain in Alaska and Washington, and extensive experience training and evaluating captains and mates onboard vessels.

4. I have been asked to provide my professional opinion as to the duty of care and causation surrounding the cargo shifting on the barge KRS 330 while underway from Naknek, Alaska to Seattle, WA. A copy of my report is attached as **Exhibit B**.

DECLARATION OF
ROBERT RUSSELL JOHNSON - 1
CASE NO. 2:18-cv-01587-RAJ

LAW OFFICES OF
NICOLL BLACK & FEIG PLLC
1325 FOURTH AVENUE
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SEATTLE, WASHINGTON 98101
(206) 838-7555

1 5. The barge KRS 330 was loaded off center line with two Vicon 4100 crawler
2 cranes causing a port list that was countered by piling soil starboard of the center line.

3 6. The cranes reduced the deck space available, and therefore increased the height
4 of the soil, which was piled higher than the containment.

5 7. Despite the list and height of the pile, the barge could have made it to Seattle if
6 the Master had adapted his route and timing to the expected weather.

7 8. The trip from Naknek to Seattle is about 2375 miles, and typically takes
8 approximately anywhere from 12 to 17 days for a tug and tow. The trip may take longer
9 depending on the tug, the barge, the cargo, the weather, and the route.

10 9. Prudent captains do not head directly from Naknek to Seattle without
11 consulting the weather and rarely if ever choose to transit directly across the Gulf of Alaska to
12 Puget Sound.

13 10. Prudent captains analyze weather forecasts and adapt their routes and speed to
14 avoid rough weather between Alaska and Seattle.

15 11. I have reviewed Dr. Nicholas Bond's report detailing the weather forecasts
16 available in late May 2018 for projected conditions in the Unimak Pass area in early June
17 2018.

18 12. I have also reviewed Dr. Bond's reports of the actual weather on June 2, 2018
19 in the Unimak Pass area, and Master Vandusen's reports of the actual weather on June 2, 2018
20 in the Unimak Pass area.

21 13. Based on the weather forecasts that were available in late May 2018, Master
22 Vandusen should have known his planned route and speed would take him into rough weather
23 in Unimak Pass on June 2, 2018.

24 14. Master Vandusen could have delayed departure or slowed down to avoid the
25 rough weather in Unimak Pass.

15. According to Master Vandusen's logbook, the weather in Unimak Pass on June 2, 2019, was nearly identical to what was forecast: Wind SSE 30 kns, seas 8' – 10'.

16. The tug and barge proceed through Unimak Pass from West to East, taking the wind and seas on the starboard side of the barge.

17. The Master should not have subjected the cargo of loose soil to such heavy wind, swells and seas.

18. If the Master had avoided the rough weather in Unimak Pass, he would have still had 1989 miles to transport the cargo to Seattle if he chose the most sheltered and traditional route: through the Shumagin Islands, north through Shelikof Straits, then passing close to Cape Clear and Cape St. Elias, and then the Inside Passage from Cape Spencer.

19. By obtaining weather forecasts, and choosing the most sheltered route and speed to avoid rough weather, the Master more likely than not could have avoided rough weather for the entire trip between Naknek and Seattle, and the barge more likely than not would have made it to Seattle without the need to stop and reload the cargo.

I declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 4th day of October, 2019 at LOPEZ ISLAND, Washington.

R. Russell Johnson
Robert Russell Johnson

DECLARATION OF
ROBERT RUSSELL JOHNSON - 3
CASE NO. 2:18-cv-01587 -RAJ

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